HIPAA
December 1, 2006

Q. What is HIPAA?

A. The acronym stands for the Health Insurance Portability and Accountability Act of 1996. The act is designed to provide portability of health coverage when an employee terminates or otherwise loses health insurance coverage. Before this act was passed, some employer health plans did not cover pre-existing medical conditions. HIPAA limits the time period of these restrictions so that most plans must cover an individual's pre-existing condition after 12 months. Under HIPAA, an employer's plan is required to give you credit for the length of time that you had continuous health coverage that will reduce the 12-month exclusion period. If, at the time you change jobs, you already have had 12 months of continuous health coverage (without a break in coverage of 63 days or more), you will not have to start over with a new 12-month exclusion for any pre-existing condition.

Q. What is a "pre-existing condition?"

A. A pre-existing condition is a physical or mental condition for which medical advice, diagnoses, care or treatment was recommended or received in the six months prior to the enrollment date. Under HIPAA, if the medical treatment was longer than six months an exclusion cannot be applied.

Q. Are there pre-existing conditions that cannot be excluded from coverage?

A. Yes. Pre-existing condition exclusions cannot be applied to pregnancy, regardless of whether the woman had previous coverage. Also, exclusions cannot be applied to children who become covered within 30 days of birth or adoption.

Q. How will newly hired employees prove that they had prior health coverage?

A. Under HIPAA, providing information about an employee's prior health coverage is the responsibility of an employee's former plan administrator. A certificate stating when you were covered under the plan must be provided automatically to you when you lose coverage under the plan.

Q. How does my new plan determine the length of my pre-existing condition exclusion period?

A. Your new plan will need to receive information about your prior coverage from the certificate that your prior plan furnishes to you at the time you lose coverage. The new plan must reduce an individual's pre-existing condition exclusion period by the number of days of an individual's prior coverage, as long as there wasn't a break in coverage of 63 days or more. Since the maximum length of a pre-existing condition exclusion period under HIPAA is 12 months, if you have had coverage for 12 months or longer without a break of 63 days or more, the new plan would not impose a pre-existing condition exclusion period. If you have had less than 12 months of prior coverage or had a break of 63 days or longer, the new plan may impose an exclusion period consistent with the length of the prior coverage.

Q. My new plan has no waiting period but applies a 9-month exclusion period for pre-existing conditions. I have asthma and received treatment for it several times during the 6-month period prior to my enrollment date in my new employer's health plan. I was recently hospitalized as a result of my asthma. Is my new plan required to cover this hospitalization?

A. No. You are subject to the remaining 3 months of the 12-month pre-existing condition exclusion period applied by your plan because you did not have any previous coverage and because you have received treatment for the condition within the 6-month period prior to your enrollment date in the new plan.

Q. I began employment with my current employer 100 days after my previous group health plan coverage terminated. I had been covered by my previous employer's plan for 36 continuous months prior to termination. I had no other coverage before my enrollment date in my current employer's plan. Will I be subject to the 9-month pre-existing condition exclusion period imposed by my current employer's plan?

A. Yes. Your break in coverage of 100 days is a significant break in coverage under federal law. You may avoid a significant break in coverage if, when your previous coverage is terminated, you continue your coverage through COBRA or if you purchase an individual health insurance policy.

Q. Can I receive credit for previous COBRA continuation coverage?

A. Yes. Under HIPAA any period of time that you are receiving COBRA continuation coverage is counted as previous health coverage as long as the coverage occurred without a break in coverage of 63 days or more. For example, if you were covered continuously for 5 months by a previous health plan and then received 7 months of COBRA continuation coverage, you would be entitled to receive credit for 12 months of coverage by your new group health plan.

Q. What if I have trouble getting a certificate from my former employer's plan?

A. Under HIPAA, group health plans and insurers are required to provide documentation that certifies the coverage you have earned. Group health plans and insurers that fail or refuse to provide such certificate are subject to penalties. Your first step is to contact the plan administrator of your prior plan and request a copy. If you do not receive a certificate, you may demonstrate to your new plan that you have coverage by producing evidence, such as pay stubs that reflect a deduction for health insurance, explanation of benefits forms, or verification by a doctor or other benefits providers that you had prior coverage. It is important, therefore, for individuals to keep accurate records that can be used to establish periods of creditable coverage in the event a certification cannot be obtained from a prior plan.

Q. Can I lose coverage if my health status changes?

A. Group health plans may not establish rules for eligibility of any individual to enroll under the terms of the plan based on health status-related factors. These factors are your health status, medical condition (physical or mental), claims experience, receipt of health care, medical history, evidence of insurability or disability. For example, you cannot be excluded or dropped from coverage under your health plan just because you have a particular illness. Also, plans may not require an individual to pay a premium or contribution greater than that for a similarly situated individual based on a health status-related factor.

Q. If I change jobs, am I guaranteed the same benefits that I have under my current plan?

A. No. When a person transfers from one plan to another, the benefits the person receives will be those provided under the new plan. Coverage under the new plan can be different than the coverage under the former plan.